

105TH CONGRESS  
1ST SESSION

# S. 1244

To amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

OCTOBER 1, 1997

Mr. GRASSLEY (for himself, Mr. SESSIONS, and Mr. GRAMS) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 11, United States Code, to protect certain charitable contributions, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Religious Liberty and  
5       Charitable Donation Protection Act of 1997”.

6       **SEC. 2. DEFINITIONS.**

7       Section 548(d) of title 11, United States Code, is  
8       amended by adding at the end the following:

9       “(3) In this section, the term ‘charitable contribution’  
10       means a charitable contribution, as that term is defined

1 in section 170(c) of the Internal Revenue Code of 1986,  
 2 if that contribution—

3 “(A) is made by a natural person; and

4 “(B) consists of—

5 “(i) a financial instrument (as that term is  
 6 defined in section 731(c)(2)(C) of the Internal  
 7 Revenue Code of 1986); or

8 “(ii) cash.

9 “(4) In this section, the term ‘qualified religious or  
 10 charitable entity or organization’ means—

11 “(A) an entity described in section 170(c)(1) of  
 12 the Internal Revenue Code of 1986; or

13 “(B) an entity or organization described in sec-  
 14 tion 170(c)(2) of the Internal Revenue Code of  
 15 1986.”.

16 **SEC. 3. TREATMENT OF PRE-PETITION QUALIFIED CHARI-**  
 17 **TABLE CONTRIBUTIONS.**

18 (a) IN GENERAL.—Section 548(a) of title 11, United  
 19 States Code, is amended—

20 (1) by inserting “(1)” after “(a)”;

21 (2) by striking “(1) made” and inserting “(A)  
 22 made”;

23 (3) by striking “(2)(A)” and inserting “(B)(i);

24 (4) by striking “(B)(i)” and inserting “(ii)(I)”;

1           (5) by striking “(ii) was” and inserting “(II)  
2       was”;

3           (6) by striking “(iii)” and inserting “(III)”;  
4       and

5           (7) by adding at the end the following:

6       “(2) A transfer of a charitable contribution to a  
7       qualified religious or charitable entity or organization shall  
8       not be considered to be a transfer covered under para-  
9       graph (1)(B) in any case in which—

10           “(A) the amount of that contribution does not  
11       exceed 15 percent of the gross annual income of the  
12       debtor for the year in which the transfer of the con-  
13       tribution is made; or

14           “(B) the contribution made by a debtor ex-  
15       ceeded the percentage amount of gross annual in-  
16       come specified in subparagraph (A), if the transfer  
17       was consistent with the practices of the debtor in  
18       making charitable contributions.”.

19       (b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR  
20       TO CERTAIN CREDITORS AND PURCHASERS.—Section  
21       544(b) of title 11, United States Code, is amended—

22           (1) by striking “(b) The trustee” and inserting  
23       “(b)(1) Except as provided in paragraph (2), the  
24       trustee”; and

25           (2) by adding at the end the following:

1       “(2) Paragraph (1) shall not apply to a transfer of  
 2 a charitable contribution (as that term is defined in sec-  
 3 tion 548(d)(3)) that is not covered under section  
 4 548(a)(1)(B), by reason of section 548(a)(2).”.

5       (c) CONFORMING AMENDMENTS.—Section 546 of  
 6 title 11, United States Code, is amended—

7           (1) in subsection (e)—

8               (A) by striking “548(a)(2)” and inserting  
 9 “548(a)(1)(B)”; and

10              (B) by striking “548(a)(1)” and inserting  
 11 “548(a)(1)(A)”;

12           (2) in subsection (f)—

13               (A) by striking “548(a)(2)” and inserting  
 14 “548(a)(1)(B)”; and

15              (B) by striking “548(a)(1)” and inserting  
 16 “548(a)(1)(A)”;

17           (3) in subsection (g)—

18               (A) by striking “section 548(a)(1)” each  
 19 place it appears and inserting “section  
 20 548(a)(1)(A)”; and

21              (B) by striking “548(a)(2)” and inserting  
 22 “548(a)(1)(B)”.

1 **SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CON-**  
2 **TRIBUTIONS.**

3 (a) CONFIRMATION OF PLAN.—Section  
4 1325(b)(2)(A) of title 11, United States Code, is amended  
5 by inserting before the semicolon the following: “, includ-  
6 ing charitable contributions (that meet the definition of  
7 ‘charitable contribution’ under section 548(d)(3)) to a  
8 qualified religious or charitable entity or organization (as  
9 that term is defined in section 548(d)(4)) in an amount  
10 not to exceed 15 percent of the gross income of the debtor  
11 for the year in which the contributions are made”.

12 (b) DISMISSAL.—Section 707(b) of title 11, United  
13 States Code, is amended by adding at the end the follow-  
14 ing: “In making a determination whether to dismiss a case  
15 under this section, the court may not take into consider-  
16 ation whether a debtor has made, or continues to make,  
17 charitable contributions (that meet the definition of ‘chari-  
18 table contribution’ under section 548(d)(3)) to any quali-  
19 fied religious or charitable entity or organization (as that  
20 term is defined in section 548(d)(4)).”.

21 **SEC. 5. APPLICABILITY.**

22 This Act and the amendments made by this Act shall  
23 apply to any case brought under an applicable provision  
24 of title 11, United States Code, that is pending or com-  
25 menced on or after the date of enactment of this Act.

1 **SEC. 6. RULE OF CONSTRUCTION.**

2       Nothing in the amendments made by this Act is in-  
3 tended to limit the applicability of the Religious Freedom  
4 Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

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